IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Jeff EDER

Serial No.: 10/750,792

Filed: January 3, 2004

For: AN AUTOMATED METHOD OF AND SYSTEM FOR IDENTIFYING, MEASURING AND ENHANCING CATEGORIES OF VALUE FOR A VALUE CHAIN

Group Art Unit: 3691

Examiner: Sigfried Chencinski

Brief on Appeal

Sir or Madam:

The Appellant respectfully appeals the rejection of claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181, claim 182, claim 183, claim 184, claim 185, claim 186, claim 187, claim 188, claim 189, claim 190, claim 191, claim 192, claim 193, claim 194, claim 195, claim 196 and claim 197 in the November 17, 2008 Office Action for the above referenced application. The Table of Contents is on page 2 of this paper.

Table of Contents

1. Real party in interest

Asset Reliance, Inc. (dba Asset Trust, Inc.) is the Appellant and the owner of 100% interest in the above referenced patent application.

2. Related appeals

An Appeal for U.S. Patent Application 09/761,670 filed on January 19, 2001 may be affected by or have a bearing on this appeal. An Appeal for U.S. Patent Application 10/743,417 filed on December 22, 2003 may be affected by or have a bearing on this appeal. An Appeal for U.S. Patent Application 11/278,419 filed on April 1, 2006 may be affected by or have a bearing on this appeal

3. Status of Claims

Claims 175 - 197 are rejected and are the subject of this appeal. Claims 1 – 174 are cancelled (they were cancelled before the first Office Action). No other claims are pending.

4. Status of Amendments

There are no amendments pending.

5. Summary of Claimed Subject Matter

One embodiment of an automated method of and system for identifying, measuring and enhancing categories of value for a value chain is best depicted in Figure 1 – 10 of the specification. Figure 1 gives an overview of the major processing steps which include preparing data for use in processing, identifying keywords, transforming the data into a set of models representative of organization financial performance before using one or more of the weights from said models as a keyword relevance indicator.

Independent Claim 175 - A first embodiment of the system for identifying, measuring and enhancing categories of value for a value chain is exemplified in independent claim 175 where an article of manufacture instructs a computer system to integrate data representative of an organization from a plurality of databases and then transforms the integrated data into models of organization financial performance by a category of value. The weights that are output from said models are useful as indicators of keyword relevance. Support for the specific steps contained in the claim can be found in the specification and drawings as detailed below:

The computer system is described in FIG. 3, reference numbers 100, 110 – 118, 120 – 128 and

130 – 138 and line 16, page 15 through line 4, page 17 of the specification.

a) integrating a plurality of data from a plurality of organization related systems, user input and an Internet in accordance with a common schema and an xml metadata standard - the acquisition and integration of data is described in FIG. 5A reference numbers 202, 203, 207, 208, 209 and 211, FIG 5B, reference numbers 221, 222, 225, 226, 209 and 211, FIG 5C, reference numbers 241, 242, 209 and 211; FIG 5D, reference numbers 261, 262, 266, 267, 268 and 269, 209 and 211, FIG. 5E, reference numbers 277, 278, 279, 280, 281 and 282 line 16, page 27; through line 9, page 37 and line 19, page 37 through line 33, page 41 of the specification;

b) obtaining one or more keywords and a set of classification rules for each keyword from a user - the user (20) identifies keywords and establishes metadata mapping as described in FIG. 5D, reference number 265 and line 10, page 37 through line 18, page 37 of the specification;

c) searching for a plurality of keywords on the Internet, storing a location for each identified keyword, counting and classifying each stored keyword and creating one or more keyword performance indicators - the search for keywords, the identification of keyword locations, the analysis of the keyword data and the development of keyword performance indicators (i.e. counts of classified hits) found on the Internet is described in FIG. 5D, reference numbers 266 and 267 and line 19, page 37 and line 28, page 38 of the specification;

d) developing a model of organization financial performance by category of value that quantifies an impact of each of one or more keyword performance indicators – transforming the data obtained in steps a, b and c above into a model that identifies the impact of the elements of value on the current operation category of value above is described in FIG. 5F reference numbers 291, 292, 293, 294, 295, 296 and 297, FIG. 6A, reference numbers 303, 304, 305, 306, 307, 308, 309 and 310; FIG. 6B reference numbers 321, 323, 328, 329, 330, 331 and 333, FIG. 6C reference numbers 341, 342, 343, 345, 346, 347, 348, 349 and 350, line 29, page 38 through line 14, page 51 and line 5, page 53 through line 33, page 60 of the specification . Keyword indicator impact is determined for the current operation and the other categories of value by multiplying the percentage contribution of each keyword indicator to each element of value summary by the quantified element of value impact for all elements of value (see Table 7, page 19 for general procedure). Transforming the data obtained in steps a, b and c above into a model that identifies the impact of the elements of value on the real option category of value is described in FIG 6C reference number 325, 326, 327 and line 15, page 51 through line 4, page 53 of the specification. Transforming the data obtained in steps a, b and c above into a model

that identifies the impact of the elements of value on the market sentiment category of value is described in FIG. 7 reference numbers 404, 405, 410 and line 1, page 61 through line 15, page 65 of the specification.

e) using the quantified impact of each keyword indicator as a measure of a relevance of each keyword to the organization - the quantified impact's on organization financial performance are measures of relevance as discussed in line 1, page 12 through line 16, page 12.

f) where keyword performance indicators are linked together when they are not independent – as described in FIG. 6A, reference numbers 306 and 308 and line 24, page 48 through line 15, page 50 of the specification.

Claim 176 - The limitations associated with dependent claim 176 are described in a number of places including FIG. 5A, reference number 203 and line 12, page 29 through line 27, page 29 of the specification.

Claim 177 - The limitations and activities associated with dependent claim 177 are described in FIG. 1 reference number 50, FIG. 5A reference numbers 50, 202, 203, 207, 208, 209 and 211, FIG 5B, reference numbers 50, 221, 222, 225, 226, 209 and 211, FIG 5C, reference numbers 50, 241, 242, 209 and 211; FIG 5D, reference numbers 50, 261, 262, 266, 267, 268 and 269, 209 and 211, FIG. 5E, reference numbers 50, 277, 278, 279, 280, 281 and 282 line 16, page 27; through line 9, page 37 and line 19, page 37 through line 33, page 41.

Claim 178 - The limitations associated with dependent claim 178 are described in a number of places including FIG. 1 reference numbers 5, 10, 15, 20, 30 and 35, line 1, page 21 through line 20, page 21 and line 19, page 26 through line 24, page 26 of the specification.

Claim 179 - The limitations associated with dependent claim 179 are described in a number of places including FIG. 5A, reference number 203, and line 1, page 29, through line 6, page 30 of the specification.

Claim 180 - The limitations associated with dependent claim 180 are described in a number of places including FIG. 2 reference numbers 140 – 169 and line 28, page 14 through line 7, page 15 of the specification.

Claim 181 - The limitations associated with dependent claim 181 are described in a number of places including FIG. 5D, reference number 265 and line 10, page 37 through line 18, page 37 of the specification.

Claim 182 - The limitations associated with dependent claim 182 are described in a number of

places including line 25, page 25 through line 33, page 25 of the specification.

Independent Claim 183 - A second embodiment of the system for identifying, measuring and enhancing categories of value for a value chain is exemplified in independent claim 183 where a process uses a computer system to integrate data representative of an organization from a plurality of databases and then transforms the integrated data into models of organization financial performance by a category of value. The weights that are output from said models are useful as indicators of keyword relevance. Support for the specific steps contained in the claim can be found in the specification and drawings as detailed below:

a) integrating a plurality of data from a plurality of organization related systems, user input and an Internet in accordance with a common schema and an xml metadata standard - the acquisition and integration of data is described in FIG. 5A reference numbers 202, 203, 207, 208, 209 and 211, FIG 5B, reference numbers 221, 222, 225, 226, 209 and 211, FIG 5C, reference numbers 241, 242, 209 and 211; FIG 5D, reference numbers 261, 262, 266, 267, 268 and 269, 209 and 211, FIG. 5E, reference numbers 277, 278, 279, 280, 281 and 282 line 16, page 27; through line 9, page 37 and line 19, page 37 through line 33, page 41 of the specification;

b) obtaining one or more keywords and a set of classification rules for each keyword from a user - the user (20) identifies keywords and establishes metadata mapping as described in FIG. 5D, reference number 265 and line 10, page 37 through line 18, page 37 of the specification;

c) searching for a plurality of keywords on the Internet, storing a location for each identified keyword, counting and classifying each stored keyword and creating one or more keyword performance indicators - the search for keywords, the identification of keyword locations, the analysis of the keyword data and the development of keyword performance indicators (i.e. counts of classified hits) found on the Internet is described in FIG. 5D, reference numbers 266 and 267 and line 19, page 37 and line 28, page 38 of the specification;

d) developing a model of organization financial performance by category of value that quantifies an impact of each of one or more keyword performance indicators – transforming the data obtained in steps a, b and c above into a model that identifies the impact of the elements of value on the current operation category of value above is described in FIG. 5F reference numbers 291, 292, 293, 294, 295, 296 and 297, FIG. 6A, reference numbers 303, 304, 305, 306, 307, 308, 309 and 310; FIG. 6B reference numbers 321, 323, 328, 329, 330, 331 and 333, FIG. 6C reference numbers 341, 342, 343, 345, 346, 347, 348, 349 and 350, line 29, page 38

through line 14, page 51 and line 5, page 53 through line 33, page 60 of the specification . Keyword indicator impact is determined for the current operation and the other categories of value by multiplying the percentage contribution of each keyword indicator to each element of value summary by the quantified element of value impact for all elements of value (see Table 7, page 19 for general procedure). Transforming the data obtained in steps a, b and c above into a model that identifies the impact of the elements of value on the real option category of value is described in FIG 6C reference number 325, 326, 327 and line 15, page 51 through line 4, page 53 of the specification. Transforming the data obtained in steps a, b and c above into a model that identifies the impact of the elements of value on the market sentiment category of value is described in FIG. 7 reference numbers 404, 405, 410 and line 1, page 61 through line 15, page 65 of the specification. The process for transforming data into models is the same process

e) using the quantified impact of each keyword indicator as a measure of a relevance of each keyword to the organization. As discussed in line 1, page 12 through line 16, page 12 the quantified impact's on organization financial performance are measures of relevance to determining the overall financial performance.

f) where keyword performance indicators are linked together when they are not independent – as described in FIG. 6A, reference numbers 306 and 308 and line 24, page 48 through line 15, page 50 of the specification.

The computer system is described in FIG. 3, reference numbers 100, 110 – 118, 120 – 128 and 130 – 138 and line 16, page 15 through line 4, page 17 of the specification.

Claim 184 - The limitations associated with dependent claim 184 are described in a number of places including FIG. 5A, reference number 203 and line 12, page 29 through line 27, page 29 of the specification.

Claim 185 - The limitations associated with dependent claim 185 are described in a number of places including FIG. 1 reference numbers 5, 10, 15, 20, 30 and 35, line 1, page 21 through line 20, page 21 and line 19, page 26 through line 24, page 26 of the specification.

Claim 186 - The limitations associated with dependent claim 186 are described in a number of places including FIG. 5A, reference number 203, and line 1, page 29, through line 6, page 30 of the specification.

Claim 187 - The limitations associated with dependent claim 187 are described in a number of places including FIG. 5D, reference number 265 and line 10, page 37 through line 18, page 37 of the specification.

Independent Claim 188 - A third embodiment of the system for identifying, measuring and enhancing categories of value for a value chain is exemplified in independent claim 188 where a computer system integrates data representative of an organization from a plurality of databases and then transforms the integrated data into models of organization financial performance by a category of value. The weights that are output from said models are useful as indicators of keyword relevance. Support for the claim be found in the specification and drawings as detailed below:

The computer system is described in FIG. 3, reference numbers 100, 110 – 118, 120 – 128 and 130 – 138 and line 16, page 15 through line 4, page 17 of the specification.

a) integrating a plurality of data from a plurality of organization related systems, user input, an Internet and one or more external databases in accordance with a common schema and an xml metadata standard - the acquisition and integration of data is described in FIG. 5A reference numbers 202, 203, 207, 208, 209 and 211, FIG 5B, reference numbers 221, 222, 225, 226, 209 and 211, FIG 5C, reference numbers 241, 242, 209 and 211; FIG 5D, reference numbers 261, 262, 266, 267, 268 and 269, 270, 271, 209 and 211, FIG. 5E, reference numbers 277, 278, 279, 280, 281 and 282 line 16, page 27; through line 9, page 37 and line 19, page 37 through line 33, page 41 of the specification;

b) obtaining one or more keywords and a set of classification rules for each keyword from a user - the user (20) identifies keywords and establishes metadata mapping as described in FIG. 5D, reference number 265 and line 10, page 37 through line 18, page 37 of the specification;

c) searching for a plurality of keywords on the Internet, storing a location for each identified keyword, counting and classifying each stored keyword and creating one or more keyword performance indicators - the search for keywords, the identification of keyword locations, the analysis of the keyword data and the development of keyword performance indicators (i.e. counts of classified hits) found on the Internet is described in FIG. 5D, reference numbers 266 and 267 and line 19, page 37 and line 28, page 38 of the specification;

d) developing a model of organization financial performance by category of value that quantifies an impact of each of one or more keyword performance indicators – transforming the data obtained in steps a, b and c above into a model that identifies the impact of the elements of value on the current operation category of value above is described in FIG. 5F reference numbers 291, 292, 293, 294, 295, 296 and 297, FIG. 6A, reference numbers 303, 304, 305, 306, 307, 308, 309 and 310; FIG. 6B reference numbers 321, 323, 328, 329, 330, 331 and 333,

FIG. 6C reference numbers 341, 342, 343, 345, 346, 347, 348, 349 and 350, line 29, page 38 through line 14, page 51 and line 5, page 53 through line 33, page 60 of the specification . Keyword indicator impact is determined for the current operation and the other categories of value by multiplying the percentage contribution of each keyword indicator to each element of value summary by the quantified element of value impact for all elements of value (see Table 7, page 19 for general procedure). Transforming the data obtained in steps a, b and c above into a model that identifies the impact of the elements of value on the real option category of value is described in FIG 6C reference number 325, 326, 327 and line 15, page 51 through line 4, page 53 of the specification. Transforming the data obtained in steps a, b and c above into a model that identifies the impact of the elements of value on the market sentiment category of value is described in FIG. 7 reference numbers 404, 405, 410 and line 1, page 61 through line 15, page 65 of the specification. The process for transforming data into models is the same process

e) using the quantified impact of each keyword indicator as a measure of a relevance of each keyword to the organization. As discussed in line 1, page 12 through line 16, page 12 the quantified impact's on organization financial performance are measures of relevance to determining the overall financial performance.

f) where keyword performance indicators are linked together when they are not independent – as described in FIG. 6A, reference numbers 306 and 308 and line 24, page 48 through line 15, page 50 of the specification.

Claim 189 - The limitations associated with dependent claim 189 are described in a number of places including FIG. 5A, reference number 203 and line 12, page 29 through line 27, page 29 of the specification.

Claim 190 - The limitations associated with dependent claim 190 are described in a number of places including FIG. 1 reference numbers 5, 10, 15, 20, 25, 30 and 35, line 1, page 21 through line 20, page 21 and line 19, page 26 through line 24, page 26 of the specification.

Claim 191 - The limitations associated with dependent claim 191 are described in a number of places including FIG. 5A, reference number 203, and line 1, page 29, through line 6, page 30 of the specification.

Claim 192 - The limitations associated with dependent claim 192 are described in a number of places including FIG. 5D, reference number 265 and line 10, page 37 through line 18, page 37 of the specification.

Independent Claim 193 - A fourth embodiment of the system for identifying, measuring and enhancing categories of value for a value chain is exemplified in independent claim 193 where a process uses a computer system to integrate data representative of an organization from a plurality of databases and then transforms the integrated data into models of organization financial performance by a category of value. The weights that are output from said models are useful as indicators of keyword relevance. Support for the claim be found in the specification and drawings as detailed below:

The computer system is described in FIG. 3, reference numbers 100, 110 – 118, 120 – 128 and 130 – 138 and line 16, page 15 through line 4, page 17 of the specification.

a) integrating a plurality of data from a plurality of organization related systems, user input, an Internet and one or more external databases in accordance with a common schema and an xml metadata standard - the acquisition and integration of data is described in FIG. 5A reference numbers 202, 203, 207, 208, 209 and 211, FIG 5B, reference numbers 221, 222, 225, 226, 209 and 211, FIG 5C, reference numbers 241, 242, 209 and 211; FIG 5D, reference numbers 261, 262, 266, 267, 268 and 269, 270, 271, 209 and 211, FIG. 5E, reference numbers 277, 278, 279, 280, 281 and 282 line 16, page 27; through line 9, page 37 and line 19, page 37 through line 33, page 41 of the specification;

b) obtaining one or more keywords and a set of classification rules for each keyword from a user - the user (20) identifies keywords and establishes metadata mapping as described in FIG. 5D, reference number 265 and line 10, page 37 through line 18, page 37 of the specification;

c) searching for a plurality of keywords on the Internet, storing a location for each identified keyword, counting and classifying each stored keyword and creating one or more keyword performance indicators - the search for keywords, the identification of keyword locations, the analysis of the keyword data and the development of keyword performance indicators (i.e. counts of classified hits) found on the Internet is described in FIG. 5D, reference numbers 266 and 267 and line 19, page 37 and line 28, page 38 of the specification;

d) developing a model of organization financial performance by category of value that quantifies an impact of each of one or more keyword performance indicators – transforming the data obtained in steps a, b and c above into a model that identifies the impact of the elements of value on the current operation category of value above is described in FIG. 5F reference numbers 291, 292, 293, 294, 295, 296 and 297, FIG. 6A, reference numbers 303, 304, 305, 306, 307, 308, 309 and 310; FIG. 6B reference numbers 321, 323, 328, 329, 330, 331 and 333,

FIG. 6C reference numbers 341, 342, 343, 345, 346, 347, 348, 349 and 350, line 29, page 38 through line 14, page 51 and line 5, page 53 through line 33, page 60 of the specification . Keyword indicator impact is determined for the current operation and the other categories of value by multiplying the percentage contribution of each keyword indicator to each element of value summary by the quantified element of value impact for all elements of value (see Table 7, page 19 for general procedure). Transforming the data obtained in steps a, b and c above into a model that identifies the impact of the elements of value on the real option category of value is described in FIG 6C reference number 325, 326, 327 and line 15, page 51 through line 4, page 53 of the specification. Transforming the data obtained in steps a, b and c above into a model that identifies the impact of the elements of value on the market sentiment category of value is described in FIG. 7 reference numbers 404, 405, 410 and line 1, page 61 through line 15, page 65 of the specification. The process for transforming data into models is the same process

e) using the quantified impact of each keyword indicator as a measure of a relevance of each keyword to the organization. As discussed in line 1, page 12 through line 16, page 12 the quantified impact's on organization financial performance are measures of relevance to determining the overall financial performance.

Claim 194 - The limitations associated with dependent claim 194 are described in a number of places including FIG. 5A, reference number 203 and line 12, page 29 through line 27, page 29 of the specification.

Claim 195 - The limitations associated with dependent claim 195 are described in a number of places including FIG. 1 reference numbers 5, 10, 15, 20, 25, 30 and 35, line 1, page 21 through line 20, page 21 and line 19, page 26 through line 24, page 26 of the specification.

Claim 196 - The limitations associated with dependent claim 196 are described in a number of places including FIG. 5A, reference number 203, and line 1, page 29, through line 6, page 30 of the specification.

Claim 197 - The limitations associated with dependent claim 197 are described in a number of places including FIG. 5D, reference number 265 and line 10, page 37 through line 18, page 37 of the specification.

6. Grounds of rejection to be reviewed on appeal

Issue 1 - Whether claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181, claim 182, claim 183, claim 184, claim 185, claim 186, claim 187, claim 188, claim 189, claim

190, claim 191, claim 192, claim 193, claim 194, claim 195, claim 196 and claim 197 are patentable under 35 U.S.C. 103(a) given U.S. Patent 6,012,053 (hereinafter, Pant) in view of U.S. Patent 5,812,988 (hereinafter, Sandretto)?

Issue 2 - Whether claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181 and claim 182 represent patentable subject matter under 35 U.S.C. 101?

Issue 3 - Whether claim 183, claim 184, claim 185, claim 186, claim 187 and claim 188 represent patentable subject matter under 35 U.S.C. 101?

Issue 4 - Whether claim 189, claim 190, claim 191 and claim 192 represent patentable subject matter under 35 U.S.C. 101?

Issue 5 - Whether claim 193, claim 194, claim 195, claim 196 and claim 197 represent patentable subject matter under 35 U.S.C. 101?

Issue 6 - Whether claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181, claim 182, claim 183, claim 184, claim 185, claim 186, claim 187, claim 188, claim 189, claim 190, claim 191, claim 192, claim 193, claim 194, claim 195, claim 196 and claim 197 are enabled under 35 U.S.C. 112, first paragraph?

Issue 7 - Whether claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181, claim 182, claim 183, claim 184, claim 185, claim 186, claim 187, claim 188, claim 189, claim 190, claim 191, claim 192, claim 193, claim 194, claim 195, claim 196 and claim 197 are indefinite under 35 U.S.C. 112, second paragraph?

7. The Argument

Grouping of Claims

For each ground of rejection which Appellant contests herein which applies to more than one claim, such additional claims, to the extent separately identified and argued below, do not stand and fall together.

Issue 1 - Whether claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181, claim 182, claim 183, claim 184, claim 185, claim 186, claim 187, claim 188, claim 189, claim 190, claim 191, claim 192, claim 193, claim 194, claim 195, claim 196 and claim 197 are patentable under 35 U.S.C. 103(a) given U.S. Patent 6,012,053 (hereinafter, Pant) in view of U.S. Patent 5,812,988 (hereinafter, Sandretto)?

The claims are patentable because the cited documents fail to establish a prima facie case of obviousness, because the claim rejections fail to meet the requirements of the APA and because the claim rejections are non statutory.

Reason #1 - The first reason that claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181, claim 182, claim 183, claim 184, claim 185, claim 186, claim 187, claim 188, claim 189, claim 190, claim 191, claim 192, claim 193, claim 194, claim 195, claim 196 and claim 197 are patentable is the cited documents fail to establish a prima facie case of obviousness because they do not teach or suggest one or more of the limitations for every rejected claim. *"When determining whether a claim is obvious, an examiner must make 'a searching comparison of the claimed invention – including all its limitations – with the teaching of the prior art.' In re Ochiai, 71 F.3d 1565, 1572 (Fed. Cir. 1995). Thus, 'obviousness requires a suggestion of all limitations in a claim.' CFMT, Inc. v. Yieldup Intern. Corp., 349 F.3d 1333, 1342 (Fed. Cir. 2003) (citing In re Royka, 490 F.2d 981, 985 (CCPA 1974))* Furthermore, the Board of Patent Appeal and Interferences recently confirmed (In re Wada and Murphy, Appeal No. 2007- 3733) that a proper, post KSR obviousness determination still requires that an examiner must make "a searching comparison of the claimed invention – including all its limitations – with the teaching of the prior art." In re Ochiai, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (emphasis added). In other words, obviousness still requires a suggestion of all the limitations in a claim. Limitations not taught or suggested by the cited prior art are detailed below:

a) Claims 175 and 183, (affects claims 176 – 182 and claims 184 - 187). Limitations not taught or suggested include:

1) integrating a plurality of data from a plurality of organization related systems, user input and an Internet in accordance with a common schema and an xml metadata standard,

2) obtaining one or more keywords and a set of classification rules for each keyword from a user,

3) storing a location for each identified keyword,

4) counting and classifying each stored keyword,

5) creating one or more keyword performance indicators,

6) developing a model of organization financial performance by category of value that quantifies an impact of each of one or more keyword performance indicators, and

7) using the quantified impact of each keyword indicator as a measure of a relevance of each keyword to the organization

b) Claims 188 and 193 (affects claims 189 – 192 and claims 194 - 197). Limitations not taught or suggested include:

1) integrating a plurality of data from a plurality of organization related systems, user input an Internet and one or more external databases in accordance with a common schema

and an xml metadata standard,

2) obtaining one or more keywords and a set of classification rules for each keyword from a user,

3) storing a location for each identified keyword,

4) counting and classifying each stored keyword,

5) creating one or more keyword performance indicators,

6) developing a model of organization financial performance by category of value that quantifies an impact of each of one or more keyword performance indicators, and

7) using the quantified impact of each keyword indicator as a measure of a relevance of each keyword to the organization

c) Claims 176, 184, 189 and 194. Limitations not taught or suggested include:

1) where some data are pre-specified for integration and conversion.

d) Claim 177. Limitations and activities not taught or suggested include:

1) integrated enterprise data are stored in an application database in accordance with a common schema.

e) Claims 178, 185, 190 and 195. Limitations and activities not taught or suggested include:

1) obtaining data from systems are selected from the group consisting of advanced financial systems, basic financial systems, alliance management systems, brand management systems, customer relationship management systems, channel management systems, intellectual property management systems, process management systems, vendor management systems, operation management systems, sales management systems, human resource systems, accounts receivable systems, accounts payable systems, capital asset systems, inventory systems, invoicing systems, payroll systems, enterprise resource planning systems (ERP), material requirement planning systems (MRP), scheduling systems, supply chain systems, quality control systems, purchasing systems, risk management systems and combinations thereof.

f) Claims 179, 186, 191 and 196. Limitations and activities not taught or suggested include:

1) a common schema that identifies data designations selected from the group consisting of components of value, sub components of value, known value drivers, elements of value, sub elements of value, non-relevant attributes and combinations thereof.

g) Claim 180. Limitations and activities not taught or suggested include:

1) storing a plurality of converted data in one or more tables to support organization processing.

h) Claims 181, 187, 192 and 197. Limitations and activities not taught or suggested include:

1) wherein each keyword maps to the common schema.

i) Claim 182. Limitations and activities not taught or suggested include:

1) wherein the program storage device comprises one or more intelligent agents.

Reason #2 – The second reason the claims are patentable is that Sandretto and Pant fail to establish a prima facie case of obviousness for claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181, claim 182, claim 183, claim 184, claim 185, claim 186, claim 187, claim 188, claim 189, claim 190, claim 191, claim 192, claim 193, claim 194, claim 195, claim 196 and claim 197 by teaching away from all claimed methods and limitations. MPEP § 2141.02 states that: "*in determining the difference between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious but whether the claimed invention as a whole would have been obvious.*" Furthermore, it is well established that: *A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).* Examples of Sandretto and Pant teaching away from the claimed invention include:

1) Claims 175, 183, 188 and 193 (affects claims 176 – 182, 184-187, 189 – 192 and 194 – 197) teach and rely on the fact that there are at least four ways to increase the value of a business: increase the value of the elements of value, increase the value of the real options, increase the value of current operation cash flow and increase the value of market sentiment.

Sandretto teaches away by teaching that there is only one way increase value, increase the value of cash flow from assets (see table below).

Value change per 10/750,792	Value change per Sandretto
1. Change value of cash flow from current operation category of value, 2. Change value of elements of value, 3. Change value of real option category of value & 4. Change value of market sentiment category of value	1. Change value of cash flow

2) Claims 175, 183, 188 and 193 (affects claims 176 – 182, 184-187, 189 – 192 and 194 – 197) describes the development of keyword relevance measures based on quantified financial impacts.

Pant teaches away by teaching a method that identifies relevance measures based on user identified factors and weights (Pant, abstract, Column 2, line 25 through line 36).

3) Claims 175, 183, 188 and 193 (affects claims 176 – 182, 184-187, 189 – 192 and 194 – 197) describes the transformation of data representative of a business operation and its elements of value into models that have utility in keyword relevance determination, business forecasting and performance management.

Sandretto teaches away by teaching the use of a process that only iterates the data that is provided by a user (see Sandretto, Column 3, Line 21 through Line 37).

4) Claims 175, 183, 188 and 193 (affects claims 176 – 182, 184-187, 189 – 192 and 194 – 197) describes the development of keyword relevance measures.

Pant teaches away by teaching a method that identifies the relevance of a web page or document retrieved by a search (Pant, Column 1, Line 65 through Column 2, Line 25).

5) Claims 175, 183, 188 and 193 (affects claims 176 – 182, 184-187, 189 – 192 and 194 – 197) describes a model development method that uses a series of model to identify the previously unknown impact of an element of value on a firm.

Sandretto teaches away by teaching that the financial performance of each asset of a firm or portfolio is a known function of economic variables (see Sandretto, abstract and Column 9, Line 20 through Line 25).

6) Claims 175, 183, 188 and 193 (affects claims 176 – 182, 184-187, 189 – 192 and 194 – 197) describes a process for developing keyword relevance measures that starts with a search that identifies keyword characteristics (i.e. location, classified count, etc.)

Pant teaches away by teaching a method that starts with a search that identifies potentially relevant results (see Pant, abstract, FIG. 3, Column 5, Line 60 through Column 6, Line 15).

7) Claim 175, 183, 188 and 193 (affects claims 176 – 182, 184-187, 189 – 192 and 194 – 197) describes a model development method that does not rely on any assumptions about market efficiency.

Sandretto teaches away by teaching an analysis method that relies on the efficient market hypothesis (see Sandretto, Column 9, Line 54 through Line 60).

8) Claims 175, 183, 188 and 193 (affects claims 176 – 182, 184-187, 189 – 192 and 194 – 197) describes the transformation of data representative of a business operation and its elements of value into models that have utility in keyword relevance determination, business forecasting and performance management.

Pant teaches away by teaching a method that does not transform data or develop any models and only sorts a set of search results based on user input regarding relevance (see Pant, abstract, FIG. 3, Column 5, Line 60 through Column 6, Line 15).

9) Claims 175, 183, 188 and 193 (affects claims 176 – 182, 184-187, 189 – 192 and 194 – 197) describes the use of a plurality of models to quantify the impact of one or more elements of value on one or more categories of value for a firm. Elements of value are comprised of a plurality of items that are grouped together for modeling, analysis and management.

Sandretto teaches away by teaching item level analysis and that economic variables determine the performance of a firm and/or a portfolio of assets (see Sandretto, abstract, Column 3, Line 8 through Line 11).

10) Claims 176, 184, 189 and 194 teach that some data are pre-specified for integration and conversion.

Pant teaches away by teaching that relevant material is only identified after a search and user input (see Pant, abstract, FIG. 3, Column 5, Line 60 through Column 6, Line 15).

Sandretto teaches away by teaching that the user provides the required data input (see Sandretto, Column 3, Line 21 through Line 25).

Reason #3 - The third reason claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181, claim 182, claim 183, claim 184, claim 185, claim 186, claim 187, claim 188, claim 189, claim 190, claim 191, claim 192, claim 193, claim 194, claim 195, claim 196 and claim 197 are patentable is the fact that the Examiner has not been able to explain how or why the Pant and Sandretto inventions would be modified to replicate the claimed invention. *The Supreme Court in KSR noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Court quoting In re Kahn 41 stated that "'[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness (KSR, 550 U.S. at I, 82 USPQ2d at 1396).'* In spite of this well known requirement, the Examiner has not explained how or why modification of Pant and Sandretto should be made in spite of numerous

reasonable requests that the Examiner provide such an explanation. The inability to explain how the teachings of a patent (that teach those of average skill in the art how to make and practice their inventions) should be modified provides evidence that those authoring the November 17, 2008 Office Action do not possess the average level of skill in the art required to examine a patent or author valid claim rejections for a written description or claim.

Reason #4 - The fourth reason the claims are patentable is that the cited documents fail to establish a prima facie case of obviousness for claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181, claim 182, claim 183, claim 184, claim 185, claim 186, claim 187, claim 188, claim 189, claim 190, claim 191, claim 192, claim 193, claim 194, claim 195, claim 196 and claim 197 because the unspecified modification(s) would have to change one or more of the principles of operation of the invention disclosed in Sandretto and destroy its ability to function. It is well known that when "*the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. In re Ratti, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)*". It is also well established that *when a modification of a reference destroys the intent, purpose or function of an invention such a proposed modification is not proper and the prima facie cause of obviousness cannot be properly made* (In re Gordon 733 F.2d 900, 221 U.S.PQ 1125 Fed Circuit 1984). Changes in operating principle required to enable Sandretto to replicate the functionality of the claimed invention include:

1) Sandretto teaches and relies on the principle that: the financial performance of each asset of a portfolio or firm is a known function of a plurality of economic variables and that a model of firm or portfolio value should be developed by adjusting the discount rate used to value each asset (see Sandretto, abstract and Column 9, L 20 through L 25).

	Sandretto	10/750,792
Known parameter(s)	Asset financial performance as a function of economic variables	Discount rate for current operation and market sentiment categories of value
Unknown parameter(s)	Discount rate (see Column 3, Line 21 through Line 25)	Element of value impact by category of value

The Examiner has proposed modifying Sandretto to render obvious an invention that teaches and relies on the principle that the impact of an element of value on a firm is unknown and must be discovered by modeling and that after the impact is quantified it should be valued using a discount rate based on the firm's cost of capital for the current operation and market sentiment categories of value. The Appellant notes that this modification would only be possible if the principles of operation of the Sandretto invention were changed to use almost

the exact opposite approach (see Table above) and destroy its ability to function. Because a change in the principles of the operation of Sandretto is required to enable the cited modification to replicate the functionality of the claimed inventions, the teachings of the document are not sufficient to render the claims prima facie obvious.

The Appellant notes that there are still other changes in the principle of operation of the inventions described by the cited document that would be required to replicate the claimed invention.

Reason #5 - The fifth reason that claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181, claim 182, claim 183, claim 184, claim 185, claim 186, claim 187, claim 188, claim 189, claim 190, claim 191, claim 192, claim 193, claim 194, claim 195, claim 196 and claim 197 are patentable is that the assertions regarding the alleged obviousness of the rejected claims are not in compliance with the requirements of the Administrative Procedures Act and are therefore moot. In Dickinson v. Zurko, 119 S. Ct. 1816, 50 USPQ2d 1930 (1999), the Supreme Court held that the appropriate standard of review of PTO findings are the standards set forth in the Administrative Procedure Act ("APA") at 5 U.S.C. 706 (1994). The APA provides two standards for review – an arbitrary and capricious standard and a substantial evidence standard. The Appellant respectfully submits that discussion in the preceding paragraphs clearly shows that the instant Office Action fails to provide even a scintilla of evidence to support the allegation that the claims are obvious and that as a result it fails to meet the substantial evidence standard.

The Appellant respectfully submits that the obviousness rejection of claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181, claim 182, claim 183, claim 184, claim 185, claim 186, claim 187, claim 188, claim 189, claim 190, claim 191, claim 192, claim 193, claim 194, claim 195, claim 196 and claim 197 also fails to pass the arbitrary and capricious test because as detailed above under Reason #1, Reason #2 and Reason #4 the Examiner has provided substantial evidence that all the rejected claims are new, novel and non-obvious. Furthermore, there is no rational connection between the allowance and issue of patent 7,283,982 (hereinafter, Pednault) and the rejection of the claims in the instant application for obviousness. Pednault described a similar model development method in an application with a priority date several years after the priority date of the above referenced application. The documented pattern of arbitrarily and capriciously issuing patents to large companies for inventions similar to those described in the earlier filed applications of the Appellant can also be observed in the related appeals for applications 09/761,670, 10/743,417 and 11/278,419.

Reason #6 - The selection of the Sandretto and Pant documents in an attempt to support an

obviousness rejection provides substantial evidence that those authoring the November 17, 2008 Office Action for the instant application appear to lack the level of skill in the art required to author a rejection for obviousness, lack of utility and/or for an alleged written description deficiency. The latter statement was made because it is well established that the "hypothetical 'person having ordinary skill in the art' to which the claimed subject matter pertains would, of necessity have the capability of understanding the scientific and engineering principles applicable to the pertinent art." Ex parte Hiyamizu, 10 USPQ2d 1393, 1394 (Bd. Pat. App. & Inter. 1988). No one who understood the scientific and engineering principles applicable to the pertinent art would ever suggest Sandretto and/or Pant as a reference in an obviousness rejection for the claimed inventions (see Reason #1, Reason #2 and Reason #4). The documented pattern of citing prior art and/or using technical reasoning that appear to provide evidence that those authoring the November 17, 2008 Office Action lack an average level of skill in the pertinent arts can also be observed in the related appeals for applications 09/761,670, 10/743,417 and 11/278,419. The sixth reason that claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181, claim 182, claim 183, claim 184, claim 185, claim 186, claim 187, claim 188, claim 189, claim 190, claim 191, claim 192, claim 193, claim 194, claim 195, claim 196 and claim 197 are patentable is that there is no statutory basis for giving any weight to claim rejections for obviousness authored by individuals who appear to have a level of skill in the relevant arts that is not average or better.

Issue 2 - Whether claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181, and claim 182 represent patentable subject matter under 35 U.S.C. 101?

The Appellant respectfully traverses the rejections for non statutory subject matter in three ways. First, by noting that the November 17, 2008 Office Action has failed to establish a prima facie case of non-statutory subject matter. Second, by noting that the claim rejections fail under both standards of the APA. Fourth, by noting that the claimed invention clearly meets the legal requirements for statutory subject matter.

Reason #1 - The first way the Assignee will traverse the rejection of claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181 and claim 182 under 35 U.S.C. §101 is by noting that the Examiner has failed to establish a prima facie case of non statutory subject matter. As noted in MPEP 2106 "*the burden is on the USPTO to set forth a prima facie case of unpatentability. Therefore if USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.(See, e.g., In re Nuitjen, Docket no. 2006-1371 (Fed. Cir. Sept. 20, 2007)(slip. op. at*

18)). In spite of this well known requirement, the Examiner has made unsupported conclusions regarding patentability without providing the required explanation. In particular the Examiner has failed to explain why the claims are non statutory after considering the fact that the Supreme Court has specifically stated *"[a] process may be patentable irrespective of the particular form of the instrumentalities used" (Cochrane v. Deener, 94 U. S. 780)* and in light of the fact that the Supreme Court and the CAFC (Bilski) have both found the transformation of data regarding real world activities and/or objects into a different state or thing to be statutory subject matter. In short, the complete absence of an explanation leads to the inevitable conclusion that the Examiner has failed to establish a prima facie case that would support a §101 rejection for a single claim.

Reason #2 - The second way the Assignee will traverse the §101 rejections of claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181 and claim 182 is by noting that the assertions regarding the non statutory subject matter are not in compliance with the requirements of the Administrative Procedures Act and are therefore moot. In Dickinson v. Zurko, 119 S. Ct. 1816, 50 USPQ2d 1930 (1999), the Supreme Court held that the appropriate standard of review of U.S.P.T.O. findings of fact are the standards set forth in the Administrative Procedure Act ("APA") at 5 U.S.C. 706 (1994). The APA provides two standards for review – an arbitrary and capricious standard and a substantial evidence standard. The Assignee submits that the 35 U.S.C. §101 rejection of claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181 and claim 182 fails under both standards. It fails under the substantial evidence standard because as detailed above under Reason # 1 no evidence was presented. The claim rejections also fail under the arbitrary and capricious standard for a number of reasons including:

a) the U.S.P.T.O fact-finding has provided a reference, U.S. Patent 6,012,053 (Pant), that indicates there is an understanding that the output from the claimed invention has utility in completing a search and that the completion of similar activities represents statutory subject matter, and

b) there is no rational connection between the U.S.P.T.O.' s fact-findings associated with the allowance and issue of U.S. Patent 6,012,053 (Pant) for an invention that completes a subjective relevance determination method and the rejection of claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181 and claim 182 for non statutory subject matter.

The documented pattern of arbitrarily and capriciously rejecting the Appellant's claims that are

similar to the claims in patents issued to large companies for allegedly being non-statutory and/or lacking utility can also be observed in related appeals for applications 09/761,670, 10/743,417 and 11/278,419.

Reason #3 – The third reason claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181 and claim 182 are patentable is that the claimed invention is an article of manufacture that instructs a computer system to transform data representative of things that physically exist (i.e. a business, customers, vendors, etc.) into a different state or thing: keyword performance indicators and a model of organization financial performance. The model has utility in identifying keyword relevance measures, completing forecasts, analyzing business performance and simulating the impact of changes to the business. As discussed in detail in the summary of claimed subject matter, the transformation of data into a model comes after data representative of the business has been transformed into an integrated database. As noted in the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility *"the Supreme Court noted that one example of a statutory "process" is where the process steps provide a transformation or reduction of an article to a different state or thing (Diehr, 450 U.S. at 183, 209 USPQ at 6).* In Alappat, the Court held that *"data, transformed by a machine" "to produce a smooth waveform display" "constituted a practical application of an abstract idea." State Street, 149 F.3d at 1373.* In Arrhythmia, the Court held *"the transformation of electrocardiograph signals" "by a machine" "constituted a practical application of an abstract idea." Id.* Likewise, in State Street, the Court held that *"the transformation of data" "by a machine" "into a final share price, constitutes a practical application of a mathematical algorithm." Id.* Thus, while Diehr involved the transformation of a tangible object - curing synthetic rubber - the Court also regards the transformation of intangible subject matter to similarly be eligible, so long as data represent some real world activity. In re Bilski, 545 F.3d 943, 88 U.S.P.Q.2d 1385 (2008) generally follows these prior decisions and states that the data must represent an object or substance that physically exists.

The Appellant respectfully submits that the preceding discussion makes it clear that the claimed invention passes the transformation test and that the claims describe an article of manufacture that supports a number of practical applications with substantial, specific utilities and that it therefore represents statutory subject matter.

Issue 3 - Whether claim 183, claim 184, claim 185, claim 186, claim 187 and claim 188 represent patentable subject matter under 35 U.S.C. 101?

The Appellant respectfully traverses the rejections for non statutory subject matter in three

ways. First, by noting that the November 17, 2008 Office Action has failed to establish a prima facie case of non-statutory subject matter. Second, by noting that the claim rejections fail under both standards of the APA. Third, by noting that the claimed invention clearly meets the legal requirements for statutory subject matter.

Reason #1 - The first reason claim 183, claim 184, claim 185, claim 186, claim 187 and claim 188 are patentable is Reason #1 listed under Issue 2.

Reason #2 - The second claim 183, claim 184, claim 185, claim 186, claim 187 and claim 188 are patentable is Reason #2 listed under Issue 2.

Reason #3 – The third reason claim 183, claim 184, claim 185, claim 186, claim 187 and claim 188 are patentable is that the claimed invention is a process that uses a computer system to transform data representative of things that physically exist (i.e. a business, customers, vendors, etc.) into a different state or thing: keyword performance indicators and a model of organization financial performance. The model has utility in identifying keyword relevance measures, completing forecasts, analyzing business performance and simulating the impact of changes to the business. As discussed in detail in the summary of claimed subject matter, the transformation of data into a model comes after data representative of the business has been transformed into an integrated database. As noted in the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility *"the Supreme Court noted that one example of a statutory "process" is where the process steps provide a transformation or reduction of an article to a different state or thing (Diehr, 450 U.S. at 183, 209 USPQ at 6).* In Alappat, the Court held that *"data, transformed by a machine" "to produce a smooth waveform display" "constituted a practical application of an abstract idea." State Street, 149 F.3d at 1373.* In Arrhythmia, the Court held *"the transformation of electrocardiograph signals" "by a machine" "constituted a practical application of an abstract idea." Id.* Likewise, in State Street, the Court held that *"the transformation of data" "by a machine" "into a final share price, constitutes a practical application of a mathematical algorithm." Id.* Thus, while Diehr involved the transformation of a tangible object - curing synthetic rubber - the Court also regards the transformation of intangible subject matter to similarly be eligible, so long as data represent some real world activity. In re Bilski, 545 F.3d 943, 88 U.S.P.Q.2d 1385 (2008) generally follows these prior decisions and states that the data must represent an object or substance that physically exists.

The Appellant respectfully submits that the preceding discussion makes it clear that the claimed invention passes the transformation test and that the claims describe a process that supports a

number of practical applications with substantial, specific utilities and that it therefore represents statutory subject matter.

Issue 4 - Whether claim 189, claim 190, claim 191 and claim 192 represent patentable subject matter under 35 U.S.C. 101?

The Appellant respectfully traverses the rejections for non statutory subject matter in three ways. First, by noting that the November 17, 2008 Office Action has failed to establish a prima facie case of non-statutory subject matter. Second, by noting that the claim rejections fail under both standards of the APA. Third, by noting that the claimed invention clearly meets the legal requirements for statutory subject matter.

Reason #1 - The first reason claim 189, claim 190, claim 191 and claim 192 are patentable is Reason #1 listed under Issue 2.

Reason #2 - The second reason claim 189, claim 190, claim 191 and claim 192 are patentable is Reason #2 listed under Issue 2.

Reason #3 – The third reason claim 189, claim 190, claim 191 and claim 192 are patentable is that the claimed invention is a machine that transforms data representative of things that physically exist (i.e. a business, customers, vendors, etc.) into a different state or thing: a model of organization financial performance. The model has utility in identifying keyword relevance measures, completing forecasts, analyzing business performance and simulating the impact of changes to the business. As discussed in detail in the summary of claimed subject matter, the transformation of data into a model comes after data representative of the business has been transformed into an integrated database. As noted in the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility *"the Supreme Court noted that one example of a statutory "process" is where the process steps provide a transformation or reduction of an article to a different state or thing (Diehr, 450 U.S. at 183, 209 USPQ at 6).* In Alappat, the Court held that *"data, transformed by a machine" "to produce a smooth waveform display" "constituted a practical application of an abstract idea." State Street, 149 F.3d at 1373.* In Arrhythmia, the Court held *"the transformation of electrocardiograph signals" "by a machine" "constituted a practical application of an abstract idea." Id.* Likewise, in State Street, the Court held that *"the transformation of data" "by a machine" "into a final share price, constitutes a practical application of a mathematical algorithm." Id.* Thus, while Diehr involved the transformation of a tangible object - curing synthetic rubber - the Court also regards the transformation of intangible subject matter to similarly be eligible, so long as data represent some real world activity. In re Bilski, 545 F.3d 943, 88 U.S.P.Q.2d 1385 (2008) generally

follows these prior decisions and states that the data must represent an object or substance that physically exists.

The Appellant respectfully submits that the preceding discussion makes it clear that the claimed invention passes the transformation test and that the claims describe a machine that supports a number of practical applications with substantial, specific utilities and that it therefore represents statutory subject matter.

Issue 5 - Whether claim 193, claim 194, claim 195, claim 196 and claim 197 represent patentable subject matter under 35 U.S.C. 101?

The Appellant respectfully traverses the rejections for non statutory subject matter in three ways. First, by noting that the November 17, 2008 Office Action has failed to establish a prima facie case of non-statutory subject matter. Second, by noting that the claim rejections fail under both standards of the APA. Third, by noting that the claimed invention clearly meets the legal requirements for statutory subject matter.

Reason #1 - The first reason claim 193, claim 194, claim 195, claim 196 and claim 197 and claim 188 are patentable is Reason #1 listed under Issue 2.

Reason #2 - The second reason claim 193, claim 194, claim 195, claim 196 and claim 197 are patentable is Reason #2 listed under Issue 2.

Reason #3 – The third reason claim 193, claim 194, claim 195, claim 196 and claim 197 are patentable is that the claimed invention is a process that uses a computer system to transform data representative of things that physically exist (i.e. a business, customers, vendors, etc.) into a different state or thing: a model of organization financial performance. The model has utility in identifying keyword relevance measures, completing forecasts, analyzing business performance and simulating the impact of changes to the business. As discussed in detail in the summary of claimed subject matter, the transformation of data into a model comes after data representative of the business has been transformed into an integrated database. As noted in the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility *"the Supreme Court noted that one example of a statutory "process" is where the process steps provide a transformation or reduction of an article to a different state or thing (Diehr, 450 U.S. at 183, 209 USPQ at 6).* In Alappat, the Court held that *"data, transformed by a machine" "to produce a smooth waveform display" "constituted a practical application of an abstract idea." State Street, 149 F.3d at 1373.* In Arrhythmia, the Court held *"the transformation of electrocardiograph signals" "by a machine" "constituted a practical application of an abstract*

idea." Id. Likewise, in State Street, the Court held that *"the transformation of data" "by a machine" "into a final share price, constitutes a practical application of a mathematical algorithm." Id.* Thus, while Diehr involved the transformation of a tangible object - curing synthetic rubber - the Court also regards the transformation of intangible subject matter to similarly be eligible, so long as data represent some real world activity. In re Bilski, 545 F.3d 943, 88 U.S.P.Q.2d 1385 (2008) generally follows these prior decisions and states that the data must represent an object or substance that physically exists.

The Appellant respectfully submits that the preceding discussion makes it clear that the claimed invention passes the transformation test and that the claims describe a process that supports a number of practical applications with substantial, specific utilities and that it therefore represents statutory subject matter.

Issue 6 - Whether claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181, claim 182, claim 183, claim 184, claim 185, claim 186, claim 187, claim 188, claim 189, claim 190, claim 191, claim 192, claim 193, claim 194, claim 195, claim 196 and claim 197 are enabled under 35 U.S.C. 112, first paragraph?

The claims are patentable because the arguments in the November 17, 2008 Office Action fail to establish a prima facie case of a lack of enablement, because the claim rejections fail to meet the requirements of the APA and because the claim rejections are non statutory.

Reason #1 - The first reason that claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181, claim 182, claim 183, claim 184, claim 185, claim 186, claim 187, claim 188, claim 189, claim 190, claim 191, claim 192, claim 193, claim 194, claim 195, claim 196 and claim 197 are patentable is that the Examiner has failed to establish a prima facie case that the specification does meet the enablement requirements of §112 first paragraph. *"A description as filed is presumed to be adequate; unless or until sufficient evidence or reasoning to the contrary has been presented by the examiner to rebut the presumption. See, e.g., In re Marzocchi, 439 F.2d 220, 224, 169 USPQ 367, 370 (CCPA 1971). The examiner, therefore, must have a reasonable basis to challenge the adequacy of the written description. The examiner has the initial burden of presenting by a preponderance of evidence why a person skilled in the art would not recognize in an applicant's disclosure a description of the invention defined by the claims. Wertheim, 541 F.2d at 263, 191 USPQ at 97. In rejecting a claim, the examiner must set forth express findings of fact regarding the above analysis which support the lack of written description conclusion. These findings should:*

(A) Identify the claim limitation at issue; and

(B) Establish a prima facie case by providing reasons why a person skilled in the art at the

time the application was filed would not have recognized that the inventor was in possession of the invention as claimed in view of the disclosure of the application as filed. A general allegation of "unpredictability in the art" is not a sufficient reason to support a rejection for lack of adequate written description."

The arguments presented in the November 17, 2008 Office Action fail to establish the prima facie case required to sustain a §112 first paragraph rejection for a single claim in at least three ways:

1. No evidence has been presented. As noted above, rejection under §112 first paragraph requires a preponderance of evidence and express findings of fact. In spite of this well known requirement, no facts have been identified and no evidence has been presented about a specific concern regarding the specification;

2. No claim limitation(s) at issue have been identified. The Examiner has expressed vague concerns regarding the specification but no specific claim limitations have been identified as being at issue; and

3. Relevant evidence has been ignored. Evidence that the Examiner has apparently ignored includes:

a) the summary of claimed subject matter; and

b) the declarations submitted in support of this application, the declaration represents the only known independent review of the patent specification by someone with average skill in the relevant arts under either the pre or post KSR standards for determining the possession of said level of skill.

Although the expert providing the declaration has considerable expertise in the development of models of real world entities, the Examiner has apparently chosen to ignore the contents of this declaration which states *"Specifically, U.S. Patent Application 10/746,673 together with the patent applications and patents it cross-references fully describes a performance model that quantifies and impact of a plurality of elements and sub-elements of value on a value of a business by category of value where the categories of value are selected from the group consisting of current operation, real option, market sentiment and combinations thereof (see pages 60 - 62, Evidence Appendix).* The complete description of the performance model was contained in the cross referenced parent (09/940,450) of the instant, continuation application. The performance model comprises the organization financial model mentioned in each of the rejected independent claims.

Since the prima facie case to support the claim rejections has not been established, no rebuttal was (or is) required.

Reason #2 - The second reason that claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181, claim 182, claim 183, claim 184, claim 185, claim 186, claim 187, claim 188, claim

189, claim 190, claim 191, claim 192, claim 193, claim 194, claim 195, claim 196 and claim 197 are patentable is that the assertions regarding the alleged lack of enablement in the written description are not in compliance with the requirements of the Administrative Procedures Act and are therefore moot. In Dickinson v. Zurko, 119 S. Ct. 1816, 50 USPQ2d 1930 (1999), the Supreme Court held that the appropriate standard of review of PTO findings are the standards set forth in the Administrative Procedure Act ("APA") at 5 U.S.C. 706 (1994). The APA provides two standards for review – an arbitrary and capricious standard and a substantial evidence standard. The Appellant respectfully submits that the arguments presented in the November 17, 2008 Office Action fail to meet both standards. As detailed under Reason #1, these arguments fail under the substantial evidence standard because vague allegations do not constitute evidence of a written description deficiency. The Appellant respectfully submits that the arguments presented in the November 17, 2008 Office Action also fail under the arbitrary and capricious standard. There are several reasons that the written description rejections presented in the November 17, 2008 Office Action fail under this standard:

1) there is no rational connection between the agency's findings that the Pant invention that relies on subjective relevance criteria to rank results has an adequate written description and the written description rejection of this application for alleged subjectivity where each step for objectively producing concrete results is clearly described;

2) there is no rational connection between the decision to reject claims on the basis of a written description rejection contained in the November 17th Office Action and the agency's prior fact-findings that have documented the fact that those authoring/signing the Office Action:

a) have been unable to explain how or why a single combination of the cited prior art should be made,

b) have made several consecutive, unsuccessful attempts to identify a proper combination of prior art to support rejections for obviousness,

c) have been unable to explain how or why a single modification of the cited prior art should be made, and

d) do not appear to have the capability of understanding the scientific and engineering principles applicable to the pertinent art"

3) there is no rational connection between the decision to reject claims on the basis of a written description rejection contained in the November 17th Office Action and the agency's prior fact-findings for related appeals 09/761,670, 10/743,417 and 11/278,419 that have documented the fact that those authoring/signing the Office Action do not appear to have the capability of understanding the scientific and engineering principles applicable to a variety of pertinent arts including: mathematical modeling, networks, value analysis, value management and/or value optimization. The prior factfindings have also revealed that those authoring/signing the Office Action have previously found the Appellant's methods to be

subjective even when they are clearly more objective than similar methods detailed in hundreds of allowed patents for large companies.

In short, because there is no rational connection between the agency's prior fact-findings and the claim rejections, the written description rejection for the listed claims would also fail under the arbitrary and capricious standard.

Reason #3 - It is well established that the "hypothetical 'person having ordinary skill in the art' to which the claimed subject matter pertains would, of necessity have the capability of understanding the scientific and engineering principles applicable to the pertinent art." Ex parte Hiyamizu, 10 USPQ2d 1393, 1394 (Bd. Pat. App. & Inter. 1988). No one who understood the scientific and engineering principles applicable to the pertinent art would ever suggest that an invention that relies on weights obtained from a model created by using stepwise regression, induction, cross validation and the mean squared error algorithm to analyze a validated set of data, such as the one described in the rejected claims, was arbitrary or subjective. Taken together with the apparently random selection of prior art references (see Issue #1), the November 17, 2008 Office Action contains substantial evidence that those authoring the Office Action do not possess the level of skill in the art required to author a valid written description rejection. In spite of this, the November 17, 2008 Office Action for the above referenced application contained an unsupported allegation that the disclosed process was arbitrary and subjective. The third reason that claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181, claim 182, claim 183, claim 184, claim 185, claim 186, claim 187, claim 188, claim 189, claim 190, claim 191, claim 192, claim 193, claim 194, claim 195, claim 196 and claim 197 are patentable is that there is no statutory basis for giving any weight to claim rejections for a lack of enablement or written description that are authored by individuals who do not appear to have a level of skill in the relevant arts that is average or better.

The Appellant respectfully submits that the preceding discussion makes it clear that the November 17, 2008 Office Action has failed to establish a statutory basis for the rejection of a single claim under 35 U.S.C. 112 first paragraph.

Issue 7 - Whether claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181, claim 182, claim 183, claim 184, claim 185, claim 186, claim 187, claim 188, claim 189, claim 190, claim 191, claim 192, claim 193, claim 194, claim 195, claim 196 and claim 197 are indefinite under 35 U.S.C. 112, second paragraph?

The claims are patentable because the November 17, 2008 Office Actions fails to establish a prima facie case that the claims are indefinite, because the claim rejections fail to meet the

requirements of the APA and because the claim rejections are non statutory.

Reason #1 - As mentioned previously, the first reason that claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181, claim 182, claim 183, claim 184, claim 185, claim 186, claim 187, claim 188, claim 189, claim 190, claim 191, claim 192, claim 193, claim 194, claim 195, claim 196 and claim 197, are patentable is that the Examiner has failed to establish a prima facie case that the claims are indefinite under §112 second paragraph. MPEP 2173.02 states that: *definiteness of claim language must be analyzed, not in a vacuum, but in light of:*

(A) The content of the particular application disclosure;

(B) The teachings of the prior art; and

(C) The claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made.

In reviewing a claim for compliance with 35 U.S.C. 112, second paragraph, the examiner must consider the claim as a whole to determine whether the claim apprises one of ordinary skill in the art of its scope and, therefore, serves the notice function required by 35 U.S.C. 112, second paragraph, by providing clear warning to others as to what constitutes infringement of the patent. See, e.g., Solomon v. Kimberly-Clark Corp., 216 F.3d 1372, 1379, 55 USPQ2d 1279, 1283 (Fed. Cir. 2000). See also In re Larsen, No. 01-1092 (Fed. Cir. May 9, 2001). The arguments presented in the November 17, 2008 Office Action fail to establish the prima facie case required to sustain a §112 second paragraph rejection in at least five ways:

1. By failing to present any evidence that the claims are indefinite. The November 17, 2008 Office Action only contains conclusory statements.

2. By failing to establish that the rejected claims meet any of the well established criteria for indefiniteness. Specifically, the rejected claims do not: (1) recite a means-plus-function limitation without disclosing corresponding structure in the specification; (2) include a numeric limitation without disclosing which of multiple methods of measuring that number should be used; (3) contain a term that is completely dependent on a person's subjective opinion, and/or (4) contain a term does not have proper antecedent basis where such basis is not otherwise present by implication or the meaning is not reasonably ascertainable (Halliburton Energy Services, Inc. v. M-I LLC, 514 F.3d 1244, 1255,85 USPQ2d 1663 (Fed. Cir. 2008) and Halliburton, 514 F.3d at 1246, 85 USPQ2d at 1658 (Citing Biomedino, LLC v. Waters Techs. Corp., 490 F.3d 946, 950 (Fed. Cir, 2007).

3. By failing to consider the teachings of the prior art. The terms used in the rejected claims have well recognized meanings, which allow the reader to infer the meaning of the entire phrase with reasonable confidence. Bancorp Services, L.L.C. v. Hartford Life Ins. Co., 359 F.3d 1367, 1372, 69 USPQ2d 1996, 1999-2000 (Fed. Cir. 2004).

4. By failing to consider the content of the application disclosure. The metes and bounds of the claims are clearly defined by the specification.

5. By failing to consider the claim interpretation by one possessing the ordinary or average skill in the pertinent art. The relevant Office Action does not contain any evidence that a person of ordinary skill in the pertinent arts would have any confusion about the scope of any of the claims. As described above, it does contain substantial evidence that those authoring the claim rejections do not have an ordinary or average level of skill in the pertinent arts.

Reason #2 - The second reason that claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181, claim 182, claim 183, claim 184, claim 185, claim 186, claim 187, claim 188, claim 189, claim 190, claim 191, claim 192, claim 193, claim 194, claim 195, claim 196 and claim 197 are patentable is that the assertions regarding the alleged indefiniteness of the claims are not in compliance with the requirements of the Administrative Procedures Act and are therefore moot. The APA provides two standards for review – an arbitrary and capricious standard and a substantial evidence standard. The Appellant respectfully submits that the arguments presented in the November 17, 2008 Office Action fail to meet both standards. As detailed under Reason #1, the arguments presented in the November 17, 2008 Office Action fail under the substantial evidence standard.

The Appellant also respectfully submits that a review of the prosecution history of the instant application and similar patents makes it clear that any reliance on the §112 second paragraph rejections presented in the November 17, 2008 Office Action would also fail under the second standard of the APA – the arbitrary and capricious standard. Under that standard, the reviewing court analyzes whether a rational connection exists between the agency's factfindings and its ultimate action. In particular, there is no rational connection between the agency's findings that claim 7 for Pant (an invention that relies on subjectively determined relevance factors and weightings to rank search results) is definite:

7. A computer-implemented method for providing user-controllable relevance ranking of search results of a current search from a query on a collection of items of information, comprising steps of: receiving relevance factors input by a user through a graphical user interface; receiving one or more search terms from a user; performing the query using the one or more search terms and producing a set of search results of the current search; indicating, in the search results, items in the collection matching the query; receiving information about the items in the set of search results of the current search to which the relevance factors are applied to determine a score for each of the items; providing an indication of the score indicative of relevance for each of the items in the set of search results; and providing to the user an indication of the items in the set of search results in

an order ranked according to the relevance score of each item.

and the rejection of claims 175, 183 (shown below), 188 and 193 for allegedly being indefinite

183. A computer implemented method for determining the relevance of a keyword, comprising:

integrating a plurality of data from a plurality of organization related systems, user input and an Internet in accordance with a common schema and an xml metadata standard,

obtaining one or more keywords and a set of classification rules for each keyword from a user,

searching for a plurality of keywords on the Internet,

storing a location for each identified keyword,

counting and classifying each stored keyword,

creating one or more keyword performance indicators,

developing a model of organization financial performance by category of value that quantifies an impact of each of one or more keyword performance indicators, and

using the quantified impact of each keyword indicator as a measure of a relevance of each keyword to the organization where keyword performance indicators are linked together when they are not independent.

The documented pattern of arbitrarily and capriciously rejecting claims in the Appellant's applications for being indefinite when the claims are similar to claims contained in large company patents can also be observed in the related appeals for applications 09/761,670, 10/743,417 and 11/278,419.

Reason #3 - The third reason that claim 175, claim 176, claim 177, claim 178, claim 179, claim 180, claim 181, claim 182, claim 183, claim 184, claim 185, claim 186, claim 187, claim 188, claim 189, claim 190, claim 191, claim 192, claim 193, claim 194, claim 195, claim 196 and claim 197 are patentable is that there is no statutory basis for giving any weight to claim rejections for an alleged lack of written description that are authored by individuals who do not appear to have a level of skill in the relevant arts that is average or better.

The Appellant respectfully submits that the preceding discussion makes it clear that the November 17, 2008 Office Action has failed to establish a prima facie case that the rejected claims are indefinite.

8. Conclusion

The Appellant also notes that with respect to the prosecution of the instant application, it appears that the U.S.P.T.O. has not fully complied with the requirements set forth in the APA, 35 U.S.C. 3 and 35 U.S.C. 131. A valid patent application rejection requires substantial evidence (Gartside, 203 F.3d at 1312). As described in the preceding section, the November 17, 2008 Office Action does not contain any evidence that would support the rejection of a single claim. However, related appeals and the November 17, 2008 Office Action for the instant application do provide substantial evidence that: those authoring/signing the Office Action do not appear to understand any of the scientific and/or engineering principles applicable to the pertinent art, those authoring the Office Action do not adhere to any of the well established statutory requirements for authoring valid claim rejections, and that those authoring the Office Action appear to have based the claim rejections on the use of different standards than those used for the review and allowance of similar applications filed by larger companies.

For the reasons detailed above, the Appellant respectfully but forcefully contends that each claim is patentable. Therefore, reversal of all rejections is courteously solicited.

Respectfully submitted,
Asset Trust, Inc.

/B.J. Bennett/

B.J. Bennett, President,
Dated: May 8, 2009

9. Claims Appendix

175. A program storage device readable by a computer, tangibly embodying a program of instructions executable by at least one computer to perform the method steps in a data processing method, comprising:

integrating a plurality of data from a plurality of organization related systems, user input and an Internet in accordance with a common schema and an xml metadata standard,

obtaining one or more keywords and a set of classification rules for each keyword from a user,

searching for a plurality of keywords on the Internet,

storing a location for each identified keyword,

counting and classifying each stored keyword,

creating one or more keyword performance indicators, and

developing a model of organization financial performance by category of value that quantifies an impact of each of one or more keyword performance indicators, and using the quantified impact of each keyword indicator as a measure of a relevance of each keyword to the organization

where keyword performance indicators are linked together when they are not independent.

176. The program storage device of claim 175, wherein at least some data are pre-specified for integration and conversion

177. The program storage device of claim 175, wherein a plurality of integrated enterprise data are stored in an application database in accordance with a common schema.

178. The program storage device of claim 175, wherein a plurality of organization related systems are selected from the group consisting of advanced financial systems, basic financial systems, alliance management systems, brand management systems, customer relationship management systems, channel management systems, intellectual property management systems, process management systems, vendor management systems, operation management systems, sales management systems, human resource systems, accounts receivable systems, accounts payable systems, capital asset systems, inventory systems, invoicing systems, payroll systems, enterprise resource planning systems (ERP), material requirement planning systems (MRP), scheduling systems, supply chain systems, quality control systems, purchasing systems, risk management systems and combinations thereof.

179. The program storage device of claim 175, wherein a common schema identifies data designations selected from the group consisting of components of value, sub components of value, known value drivers, elements of value, sub elements of value, non-relevant attributes and combinations thereof.

180. The program storage device of claim 175, wherein a data processing method further comprises storing a plurality of converted data in one or more tables to support organization processing.

181. The program storage device of claim 175, wherein each keyword maps to the common schema.

182. The program storage device of claim 175, wherein the program storage device comprises one or more intelligent agents.

183. A computer implemented method for determining the relevance of a keyword, comprising:
integrating a plurality of data from a plurality of organization related systems, user input and an Internet in accordance with a common schema and an xml metadata standard,
obtaining one or more keywords and a set of classification rules for each keyword from a user,
searching for a plurality of keywords on the Internet,
storing a location for each identified keyword,
counting and classifying each stored keyword,
creating one or more keyword performance indicators,
developing a model of organization financial performance by category of value that quantifies an impact of each of one or more keyword performance indicators, and
using the quantified impact of each keyword indicator as a measure of a relevance of each keyword to the organization
where keyword performance indicators are linked together when they are not independent.

184. The method of claim 183, wherein at least some data are pre-specified for integration and conversion

185. The method of claim 183, wherein a plurality of organization related systems are selected from the group consisting of advanced financial systems, basic financial systems, alliance management systems, brand management systems, customer relationship management

systems, channel management systems, intellectual property management systems, process management systems, vendor management systems, operation management systems, sales management systems, human resource systems, accounts receivable systems, accounts payable systems, capital asset systems, inventory systems, invoicing systems, payroll systems, enterprise resource planning systems (ERP), material requirement planning systems (MRP), scheduling systems, supply chain systems, quality control systems, purchasing systems, risk management systems and combinations thereof.

186. The method of claim 183, wherein a common schema identifies data designations selected from the group consisting of components of value, sub components of value, known value drivers, elements of value, sub elements of value, non-relevant attributes and combinations thereof.

187. The method of claim 183, wherein each keyword maps to the common schema.

188. A keyword relevance system, comprising:

networked computers each with a processor having circuitry to execute instructions; a storage device available to each processor with sequences of instructions stored therein, which when executed cause the processors to:

integrate a plurality of data from a plurality of organization related systems, user input, an Internet and one or more external databases in accordance with a common schema and an xml metadata standard,

obtaining one or more keywords and a set of classification rules for each keyword from a user,

search for a plurality of keywords on the Internet and in one or more external databases,

store a location for each identified keyword,

count and classify each stored keyword,

create one or more keyword performance indicators,

develop a model of organization financial performance by category of value that quantifies an impact of each of one or more keyword performance indicators, and

use the quantified impact of each keyword indicator as a measure of a relevance of each keyword to the organization

where keyword performance indicators are linked together when they are not independent.

189. The system of claim 188, wherein at least some data are pre-specified for integration and conversion

190. The system of claim 188, wherein a plurality of organization related systems are selected from the group consisting of advanced financial systems, basic financial systems, alliance management systems, brand management systems, customer relationship management systems, channel management systems, intellectual property management systems, process management systems, vendor management systems, operation management systems, sales management systems, human resource systems, accounts receivable systems, accounts payable systems, capital asset systems, inventory systems, invoicing systems, payroll systems, enterprise resource planning systems (ERP), material requirement planning systems (MRP), scheduling systems, supply chain systems, quality control systems, purchasing systems, risk management systems and combinations thereof.

191. The system of claim 188, wherein a common schema identifies data designations selected from the group consisting of components of value, sub components of value, known value drivers, elements of value, sub elements of value, non-relevant attributes and combinations thereof.

192. The system of claim 188, wherein each keyword maps to the common schema.

193. A computer implemented keyword relevance method, comprising:
integrating a plurality of data from a plurality of organization related systems, user input, an Internet and one or more external databases in accordance with a common schema and an xml metadata standard,
obtaining one or more keywords and a set of classification rules for each keyword from a user,
searching for a plurality of keywords on the Internet and in one or more external databases,
storing a location for each identified keyword,
counting and classifying each stored keyword,
creating one or more keyword performance indicators,
developing a model of organization financial performance by category of value that quantifies an impact of each of one or more keyword performance indicators, and
using the quantified impact of each keyword indicator as a measure of a relevance of each keyword to the organization

where keyword performance indicators are linked together when they are not independent.

194. The method of claim 193, wherein at least some data are pre-specified for integration and conversion

195. The method of claim 193, wherein a plurality of organization related systems are selected from the group consisting of advanced financial systems, basic financial systems, alliance management systems, brand management systems, customer relationship management systems, channel management systems, intellectual property management systems, process management systems, vendor management systems, operation management systems, sales management systems, human resource systems, accounts receivable systems, accounts payable systems, capital asset systems, inventory systems, invoicing systems, payroll systems, enterprise resource planning systems (ERP), material requirement planning systems (MRP), scheduling systems, supply chain systems, quality control systems, purchasing systems, risk management systems and combinations thereof.

196. The method of claim 193, wherein a common schema identifies data designations selected from the group consisting of components of value, sub components of value, known value drivers, elements of value, sub elements of value, non-relevant attributes and combinations thereof.

197. The method of claim 193, wherein each keyword maps to the common schema.

10. Evidence Appendix

Page 40	table comparing the claimed invention and the cited prior art
Pages 41 - 43	declaration under Rule 132 first submitted June 29, 2008

Teaching	10/750,792	Pant	Sandretto
Analysis type:	Keyword/Organization	Document/User	Item/Portfolio
Model type	Causal predictive	Scoring	Non causal, discounted cash flow
First stage	Prompt the user to identify keywords	Prompt the user to complete a search	Reduce an error measure by adjusting an input parameter value at the item level in a value model
Second stage	Develop keyword indicators for use as input variables	Receive a set of search result items from a query	None
Third stage	Select input variables that make the most significant contribution to the relevance of a value model using stepwise regression	Prompt the user to identify the relevance factors and weights that will be used to evaluate search result relevance	None
Fourth stage	Identify causal input variables and select the best set of variables using cross validation	Determine a weight for each attribute of each item in the search query based on the input supplied in the third stage	None
Fifth stage	Use the best variables in a plurality of models and select the model with lowest error	Sum the weights for all the attributes for each item to determine a relevance score for each item	None
Sixth stage	Output the keyword indicators and weights (if any) from best model as a relevance measure for the keyword	Sort and display the set of search result items from the first stage according to the relevance score	None

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. :	10/746,673
Applicant :	Jeff S. Eder
Filed :	January 18, 2001
Art Unit ::	3629
Examiner :	Freda Nelson
Docket No. :	AR - 62
Customer No. :	53787

DECLARATION UNDER RULE 132

I, Rick Rauenzahn, do hereby declare and say:

My home address is 529 Calle don Leandro, Espanola, New Mexico; I have a B.S. degree in chemical engineering from Lehigh University, an S.M. degree in chemical engineering from The Massachusetts Institute of Technology and a Ph.D. in chemical engineering from The Massachusetts Institute of Technology;

I have worked in the mathematical modeling field for 25 years, concentrating in the disciplines of fluid mechanics, turbulence modeling, numerical methods for partial differential equations, radiation hydrodynamics, and strength of materials. I also have extensive knowledge of computer system administration, particularly for Windows-based, Linux, and Unix systems; I have been employed by Los Alamos National Laboratory and Molten Metal Technologies for the past 23 years.

I further declare that I do not have any direct affiliation with the application owner, Asset Reliance, Inc. I met the inventor for the first time in April 2006. I joined the Technical Advisory Board for Knacta, Inc., a company run by the inventor in May of 2006. I have never discussed this patent application or any of the other patent applications owned by Asset Reliance with the inventor. Knacta, Inc. has a license to the intellectual property associated with this application.

On July 29, 2006, I was given a copy of U.S. Patent Application 10/746,673 entitled "an interactive sales performance management system" filed in the United States Patent Office on December 24, 2003 as well as the cross referenced application 09/940,450, filed August 29, 2001. Until that time I had not read either of these two patent applications. I have studied the entire specification in order to closely analyze the claims and drawings. I am totally familiar with the language of the claims and conversant with the scope thereof. I completely understand the invention as claimed.

Based on my experience and training in the field of mathematical modeling and electronic data processing, I have concluded that it would be straightforward for anyone of average skill in the relevant arts to duplicate the interactive sales performance management system using the information in U.S. Patent Application 10/746,673 together with the patent application it cross-references.

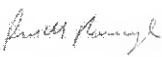
Specifically, U.S. Patent Application 10/746,673 together with the patent application and patent it cross-references fully describes:

1) A performance model that quantifies and impact of a plurality of elements and subelements of value on a value of a business by category of value where the categories of value are selected from the group consisting of current operation, real option, market sentiment and combinations thereof;

Based on these and other considerations, it is my professional opinion that U.S. Patent Application 10/746,673 together with the patent application and patent it cross-references could be used to recreate and practice a method of and system for interactive sales performance management as claimed.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patents issuing thereon.

Signed.

/Rick M. Rauenzahn/ 

Rick Rauenzahn
Date: September 27, 2006

11. Related Proceedings Appendix (None)